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IN THE

Supreme Court of the United States

October Term, 1945

No. **576**

FRED R. REEVES, JOHN H. BRADLEY, WILLIAM L. DRISCOLL
and LYNWOOD C. FRITTER, *Petitioners,*

vs.

CHESTER BOWLES, ADMINISTRATOR,
OFFICE OF PRICE ADMINISTRATION, *Respondent.*

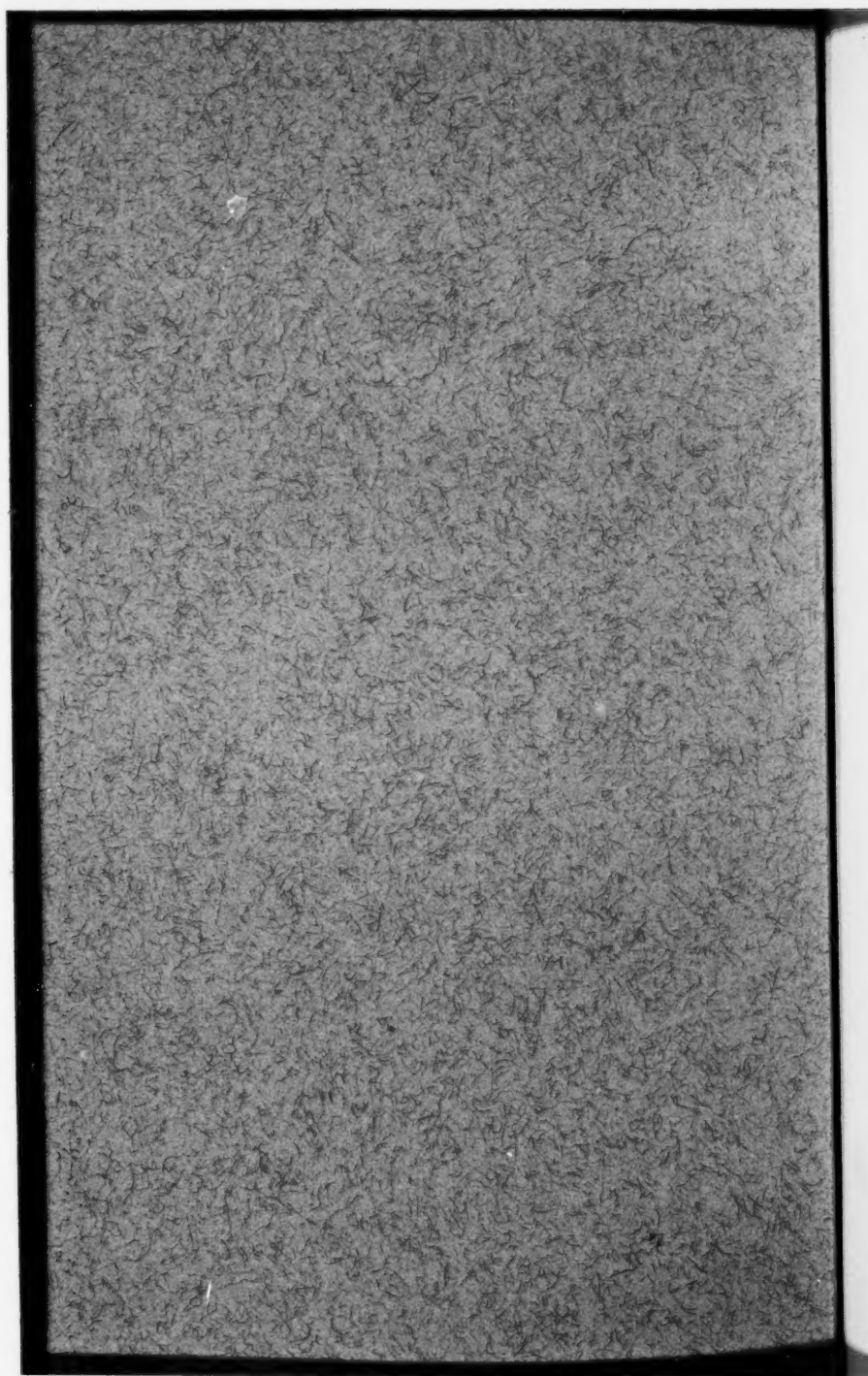
**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA AND BRIEF IN SUP-
PORT THEREOF.**

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CHESTER BOWLES, Administrator,
Office of Price Administration,
Respondent.

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA**

*To the Chief Justice and Associate Justices of the Supreme
Court of the United States:*

Fred R. Reeves, John H. Bradley, William L. Driscoll
and Lynwood C. Fritter, the petitioners above mentioned,
respectfully pray that a writ of certiorari issue to review
the judgment of the United States Court of Appeals for

the District of Columbia, their Nos. 8937, 8940, 8941 and 8942, affirming, (after the allowance of special appeals), the Order overruling the Motions to Dismiss the Complaints in the Civil Actions in the District Court of the United States for the District of Columbia. The Judgment of the United States Court of Appeals for the District of Columbia was entered on July 9, 1945 (R. 27). A Motion for Rehearing was filed in that Court on July 20, 1945 (R. 28), and denied on August 6, 1945 (R. 31). Issuance of the mandate of the United States Court of Appeals was stayed by that Court until November 1, 1945.

Individual Complaints were filed in the District Court of the United States for the District of Columbia by the respondent against a number of taxicab owners situated similarly to the petitioners and by stipulation duly entered into in the District Court it was agreed that the decision of the United States Court of Appeals in the aforementioned cases, Nos. 8937, 8940, 8941 and 8942, in which special appeals were granted and which cases were consolidated for argument in that Court, should be controlling in all of the cases filed in the District Court; but one judgment was rendered by the Court of Appeals, embracing the four cases consolidated for argument in that Court.

SUMMARY STATEMENT OF MATTERS INVOLVED

The respondent, as Administrator, Office of Price Administration, filed Complaints against a number of owners of taxicabs, for injunction and treble damages under the provisions of the Emergency Price Control Act of 1942, Chapter 26, 56 Stat. 23; U. S. Code, Title 50 App., Section 901, et seq, alleging in substance that all of the defendants in said Complaints, among whom were the petitioners herein, were owners of taxicabs which they rented to cab drivers at a certain sum of money per day, or other convenient periods of time, for the use of cab drivers in their trade or business of

transporting passengers for hire in the District of Columbia; that pursuant to the Emergency Price Control Act of 1942, the respondent had more than one year prior to the filing of the suits, issued regulations establishing, among other things, the rental rate or charges for taxicabs to drivers for use in their trade or business; and that the defendants therein, among whom are the petitioners herein, had violated the Emergency Price Control Act of 1942, as amended, and the regulations pursuant thereto, (1) in that they had failed and neglected to prepare and keep for examination by any person during ordinary business hours a statement showing their maximum rates or charges for such rental of taxicabs, and (2) since August 1, 1943, had rented taxicabs to cab drivers for use in the course of the driver's trade or business at prices in excess of respondents' lawful ceiling prices.

While some of the cases involved less, in most of them the respondent averred on information and belief that the overcharges amounted to \$5,000.00, and asked for a judgment for treble damages in the sum of \$15,000.00 and an injunction pendente lite, requiring and directing the respondents to immediately prepare and keep for examination by any person during ordinary business hours a complete statement of the lawful maximum rates or charges for the rental of such taxicabs and to submit a copy immediately upon completion thereof to the Price Specialist of the Office of Price Administration in the District of Columbia, and likewise praying that the respondents be restrained from offering to rent taxicabs at rates or charges in excess of the respondents' lawful maximum rates or charges as established by the regulations (R. 2, 11, 14, 19).

The respondents filed motions to dismiss the complaints and argued in the District Court that the Act and regulations did not apply to them; that they were engaged in the business of a public utility and a common carrier within the District of Columbia and were expressly exempted from the

provisions of the Emergency Price Control Act of 1942, and that the Public Utilities Commission of the District of Columbia is the duly constituted legal agency or authority having regulatory jurisdiction over the business and rates of the respondents (R. 6, 13, 16, 21).

The District Court, after argument by counsel, wrote a memorandum opinion denying the motions to dismiss (R. 7). Thereafter, an Order was entered overruling the motions of the respondents (R. 8), from which Order special appeals were allowed by the United States Court of Appeals in the four cases involved herein, which cases were consolidated for argument in the Court of Appeals; in a written opinion, that Court affirmed the Order of the Court below and one judgment was rendered by the Court of Appeals embracing the four cases herein involved, and by the stipulation of counsel for the respective parties the decision and judgment of the Court of Appeals is binding in all of the cases filed in the District Court.

QUESTIONS PRESENTED

1. Whether petitioners are engaged in the business of a public utility and common carrier in the District of Columbia and subject to the exclusive regulation, control and supervision of the Public Utilities Commission of the District of Columbia.

2. Whether the regulations promulgated pursuant to the Emergency Price Control Act of 1942, as amended, apply to the business in which the petitioners are engaged.

REASONS RELIED UPON FOR ALLOWANCE OF WRIT

1. The United States Court of Appeals for the District of Columbia has not given proper effect to the decisions of this Court in the cases of *Terminal Taxicab Co. v. Kutz*, 241 U. S., 252, and *Davies Warehouse Co. v. Bowles*, 321 U. S., 144.

2. The United States Court of Appeals, by mistaking or

ignoring the nature of the questions involved, decided a question not presented to it, and has left undecided a question of general importance which was squarely before it, i.e., do the pertinent regulations, properly construed, apply to the business of the petitioners.

WHEREFORE, it is respectfully prayed that a Writ of Certiorari be issued out of and under the seal of this Honorable Court directed to the United States Court of Appeals for the District of Columbia, commanding that court to certify and send to this court for its review and determination a full and complete transcript of the record and of proceedings in the case at Bar, their Nos. 8937, 8940, 8941 and 8942, and that a judgment of said United States Court of Appeals for the District of Columbia may be reversed by this Honorable Court, and that your petitioners may have such other and further relief in the premises as this Honorable Court may deem just and proper.

And your petitioners will ever pray.

FRED R. REEVES

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